

Freedom's Answer is the kind of innovative and practical idea that will strengthen our democratic process and the Nation as a whole, and it deserves our strong support. I commend Senator ALEXANDER for his impressive leadership on this impressive initiative.

#### NOMINATION OF JOSEPH KELLIHER TO THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. WYDEN. Mr. President, earlier this year, I announced my intention to object to any unanimous consent request for the Senate to take up the nomination of Joseph Kelliher to the Federal Energy Regulatory Commission. I did this because at the time, Mr. Kelliher had not convinced me that he fully understood the impact of west coast market manipulation on northwest ratepayers or the problems that the Commission's standard market design proposal could create for the northwest electric power grid.

Today I received a letter from Mr. Kelliher expressing his views on these subjects. It is clear from his letter that Mr. Kelliher has done his homework about energy issues critical to the west in general and the northwest in particular. From opposing a final standard market design rule to supporting voluntary regional transmission organizations and making market manipulation illegal, Mr. Kelliher's letter reflects he now has a better understanding and appreciation of the northwest energy markets and transmission systems and the particular challenges northwest ratepayers face.

Based on his letter, I will no longer object to any unanimous consent request for the Senate to take up Mr. Kelliher's nomination.

I ask unanimous consent that a copy of Mr. Kelliher's letter to me be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 2003.

Hon. RON WYDEN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WYDEN: I am writing to clarify my views on two issues of importance to you: Standard Market Design and market manipulation.

You have forcefully stated your opposition to the Commission's Standard Market Design. In particular, you have expressed concern that market rules developed in other regions of the country may not work in the Pacific Northwest, and emphasized the potential economic impact of the proposal on your region.

I recognize electricity markets are not national, but regional. There are significant differences among the regions—the transmission grids are different, the generation mixes are different, and the market structures are different. There are also significant legal differences—the role of nonjurisdictional utilities such as the Bonneville Power Administration and municipal utilities is more significant in the Pacific Northwest than other regions. It is essential that market rules reflect these important regional differences.

For these reasons, I do not believe imposition of uniform national market rules on your region is appropriate. I support regional flexibility, and if confirmed by the Senate I would give great deference to the views of your region. Further, I am not convinced there is a need for a final rule on Standard Market Design. A better means of achieving regional flexibility may be through regional proceedings.

Because of the unique regional characteristics in the Pacific Northwest, I believe any effort to form a regional transmission organization should be voluntary. In my view, the Commission could not successfully mandate the establishment of a regional transmission organization for the Pacific Northwest, nor should it attempt to do so.

Markets that are subject to manipulation cannot operate properly. For that reason, I believe there is an urgent need to proscribe manipulation of electricity markets. There is no express prohibition of market manipulation in the Federal Power Act. That stands in contrast with the regulatory laws governing other industries, such as securities and commodities. Market manipulation should be expressly prohibited.

In addition, penalties must be sufficient to discourage market manipulation. Well before the Western electricity crisis I advocated tougher criminal and civil penalties. In my view, the penalties set by Congress in the Federal Power Act are no longer adequate to discourage criminal behavior. They need to be increased.

The Commission has some ability to address market manipulation absent Congressional action. In my opinion, the Commission has legal authority to proscribe certain market manipulation practices by jurisdictional utilities. The Commission also has discretion to revoke authorization of a public utility to sell power at market-based rates as a remedy for market manipulation. I would support exercise of this authority.

In the past, you discussed the relationship between spot markets and long-term markets. As you know, in its "Final Report on Price Manipulation in Western Markets" the Commission staff concluded spot prices influenced forward prices. As a general matter, I acknowledge there is a relationship between spot markets and forward markets.

There is no question the Commission has legal authority to reform contracts. In the right circumstances, contract reform is appropriate. If it can be demonstrated that any Pacific Northwest contracts impose an excessive burden on consumers or are unduly discriminatory, or that fraud or duress were present at the time of contract formation, then I believe contract reform would be appropriate. You have expressed your strongly-held view that the just and reasonable standard should govern in contract reform cases. I respect your view, and note there is legal precedent supporting your position. I have not prejudged which legal standard should govern in contract reform cases, and Federal courts have applied both the public interest standard and the just and reasonable standard. As you know, the Commission applied the public interest standard in recent contract reform cases. I have not prejudged whether these cases were correctly decided.

I appreciate the opportunity to share my views with you on these matters.

Sincerely,

JOSEPH T. KELLIHER.

#### ON THE PASSING OF JOJI KONOSHIMA, PRESIDENT, U.S.-ASIA INSTITUTE

Mr. INOUE. Mr. President, on September 17, 2003, America lost one of its

true Ambassadors of Friendship, Mr. Joji Konoshima, President and co-founder of the U.S.-Asia Institute.

Mr. Konoshima was well known at home and abroad for his efforts to promote understanding and dialog between the United States and East Asian nations. His career as an educator, labor organizer, political advisor, and diplomatic mentor spanned more than 40 years.

Born in Tokyo, Japan, Mr. Konoshima immigrated with his family to the United States at the age of six years and settled in California. He was a student at the University of California, Berkeley, when he and his family were evacuated during World War II to the Heart Mountain Relocation Center in Wyoming. After the war, he received a Bachelor of arts degree in Political Science from the University of California, Berkeley, in 1953, and a Master of Arts degree in Education from New York University in 1960. Mr. Konoshima taught social studies and Japanese language in New York City, and was an adjunct assistant professor at New York University for more than a decade.

In 1973, Mr. Konoshima organized the Manhattan teachers' union in backing the successful candidacy of Mayor Abraham Beame. He then served as the labor coordinator for New York gubernatorial candidate Hugh Carey in 1974, and was the union liaison for Governor Carey after his election. In 1974, Mr. Konoshima traveled to Hawaii to organize the teachers' union. In 1976, he became the New York labor coordinator for the Presidential campaign of Jimmy Carter, and went on to join the national Carter-Mondale campaign as labor liaison. After the election, Mr. Konoshima became the National Director of the Asian Pacific Affairs Unit of the Democratic National Committee. He accompanied Vice President Walter Mondale to Japan, and traveled to Japan and Korea with President Carter. He played a key role in the historic visit of Chinese Premier Deng Xiaoping to the United States in 1978, traveling with him to New York, Houston and San Francisco.

In 1979, Mr. Konoshima co-founded, with his colleague Esther Kee, the U.S.-Asia Institute, an organization dedicated to fostering better relations between the U.S. and the countries and people of East Asia. During his tenure as President of the U.S.-Asia Institute, Mr. Konoshima personally escorted Members of Congress on visits to the People's Republic of China, as well as delegations of Congressional staff. Mr. Konoshima led more than 85 Congressional staff and trade delegations to China, Japan, Indonesia, the Philippines, Korea, Malaysia, Singapore, Thailand and Brunei. He also hosted seven international conferences in cooperation with the U.S. Department of State, and a multitude of briefings on issues of interest and concern to the U.S. and East Asian nations. Mr. Konoshima was an advisor to political,